

12/9/08

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MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA
FOR MEETING HELD ON TUESDAY EVENING, November 25, 2008

The City Council met at 5:00 pm, on the above-mentioned date, for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association; and for a Personnel Matter, pursuant to Government Code Section 54957(b)(1), for the evaluation of performance of a public employee - City Manager.

The Council then met at 7:00 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Deputy City Manager, Director of Planning and Inspection, Acting Director of Public Works - Tom Supan, City Attorney and City Clerk/Auditor.

- 3.A MOTION was made by Caserta, seconded and unanimously carried, that the Minutes for the meeting held on October 28, 2008 be adopted as written.
- 3.B MOTION was made by Caserta, seconded and carried with Kordner abstaining (not present at the meeting), that the Minutes for the Special Meeting held on November 6, 2008 be adopted as written.

5.A As a Special Order of Business, the Council proceeded to consider the Deputy City Manager's memo (11/14/08) regarding a presentation by Ronimarie Maslyar, former student of Santa Clara High School, as presented previously to the Santa Clara Unified School District district-wide meeting to kick-off the school year. The Mayor introduced the item and Ms. Maslyar, who then presented her inspirational speech depicting elements of her life experiences. The Council presented Ms. Maslyar with a City pin and certificate of commendation. The Council expressed gratitude to Ms. Maslyar for presenting her story.

6.A As an item of Unfinished Business, Kirk Vartan addressed the Council requesting a reconsideration of the action taken at the November 18, 2008 Council meeting regarding the approval of Final Map - Tract 9972 for property located at 90 North Winchester Boulevard (portion of APN 303-17-048). No Council action was taken.

6.B Also as an item of Unfinished Business, the Council proceeded to consider the City Manager's memo (11/20/08) for the creation of an amendment to City Council Minutes for the meeting of November 16, 2004 regarding Council Member Caserta's abstention on the vote regarding the Mills Act Contract for his primary residence located at 936 Fremont Street. Council Member Caserta stated that he would be abstaining on the item and stepped off the dais. The City Manager reviewed her memo. Kirk Vartan addressed the Council with comments in opposition to the amendment (provided handout). James Rowen addressed the Council in favor of the amendment. Council Member McLeod stated for the record that she would be voting against the motion for reasons involving the process the Council is going through to amend the Minutes and due to her own recollection of the event. A Council discussion followed. MOTION was made by Kolstad, seconded and carried with McLeod dissenting and Caserta abstaining, that the Council approve the amended November 16, 2004 City Council minutes, which reflect that Council Member Dominic Caserta abstained on the Council vote to "...authorize an increase to ten of the limit of Mills Act Contracts approved per calendar year and the addition of 936 Fremont Street to the Santa Clara List of Architecturally or Historically Significant Properties and approve and authorize the City Manager to execute a Historic Property Preservation Agreement (Mills Act) with Dominic Caserta for 936 Fremont Street".

Council Member Caserta returned to the dais.

7.A.1 MOTION made by Kornder, seconded and unanimously carried, that per the City Manager (11/19/08), the Council note and file the Departmental Activity Report for the month of September 2008.

- 7.A.2 MOTION was made by Kornder, seconded and unanimously carried, that per the Director of Electric Utility (11/17/08), the Council **approve** the request to allow Saul Lopez, Electric Department Power Trader, and Carol Ohara, Electric Department Senior Power System Scheduler/Trader, to accrue over the maximum vacation hours without penalty.
- 7.A.3 MOTION was made by Kornder, seconded and unanimously carried, that per the Director of Electric Utility (11/18/08), the Council **approve** the request to allow Jay Sheth, Senior Electric Utility Engineer, to accrue over the maximum vacation hours without penalty.
- 7.A.4 MOTION made by Kornder, seconded and unanimously carried, that per the Director of Electric Utility (11/19/08), the Council **approve** the use of City Electric forces for the installation of facilities at 442 Aldo Avenue, 174 Harold Avenue, 2001 Walsh Avenue, 375 Los Padres Boulevard and 2855 Stevens Creek Boulevard.
- 7.A.5 MOTION was made by Kornder, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/19/08), the Council **approve** the Bicycle Advisory Committee revised Policy Guidelines which create staggered membership terms and the reappointment of Jennifer Rodriguez and appointment of Edwin Maurer, effective January 1, 2009 and expiring December 31, 2011 and Chad Brower to serve out the remaining portion of the term which expires on December 31, 2009, to fill the three current vacancies on the Committee.
- 7.A.6 MOTION was made by Kornder, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/19/08), the Council **adopt** Resolution No. 08-7573 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ORDERING THE VACATION OF AN UNDERGROUND ELECTRIC EASEMENT AND AN OVERHEAD AND UNDERGROUND ELECTRIC EASEMENT LOCATED AT 1500 SPACE PARK DRIVE [APN 224-08-121 (2007-08)]" which orders the vacation of an Underground Electric Easement and an Overhead and Underground Electric Easement to Digital 1500 Space Park Borrower, LLC; and authorize the recordation of the Resolution (APN 224-08-121; S.C. 18,332).

7.A.7 MOTION made by Kornder, seconded and unanimously carried, that per the Director of Public Works/City Engineer (11/19/08), the Council **adopt Resolution No. 08-7574** entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS ON WASHINGTON STREET" which establishes a Disabled Parking zone in front of 251 Washington Street.

7.A.8 MOTION was made by Kornder, seconded and unanimously carried, that per the Senior Staff Aide (11/17/08), the Council **approve** the publication of the proposed February 2009 Mission City SCENES.

7.C.1,2,3 MOTION was made by Kornder, seconded and unanimously carried, that the Council **note and file** the following Informational Memos: Announcement of the Completion of the Council Chambers Camera Systems Replacement Project (Public Communications Manager - 11/14/08); Report of Proclamations Issued to Individuals with 30 or more Years of Service: Bruce C. Puphal, Driver/Engineer, Fire Department (Executive Assistant to Mayor and City Council - 11/18/08); and Solid Waste Association of North America - Distinguished Service Award to Director of Streets & Automotive Services, Richard J. Mauck (Deputy City Manager - 11/13/08).

7.D.1 MOTION was made by Kornder, seconded and unanimously carried, that the Minutes of the Senior Advisory Commission for the meeting held on October 27, 2008 be adopted as written.

7.D.2 MOTION was made by Kornder, seconded and unanimously carried, that the Minutes of the Board of Library Trustees for the meeting held on October 6, 2008 be adopted as written.

7.E.1 MOTION made by Kornder, seconded and unanimously carried, that per the Senior Staff Aide (11/18/08), the Council **approve** Adrian Wilcox High School Marching Band's request for \$9,633 in matching Championship Team Trust Fund funding for travel to Limerick, Ireland to compete in the Limerick International Band Competition March 9-18, 2009, subject to execution of a Contribution Agreement with the Santa Clara Unified School District.

7.E.2 MOTION made by Kornder, seconded and unanimously carried, that per the Director of Planning and Inspection (11/17/08), the Council **approve** Santa Clara First Baptist Church's, 3111 Benton Street, request for a Special Permit to allow for an outdoor pageant from December 11-15, 2008 (PLN2008-07390), subject to conditions.

8.A, 8.A.1 The Council proceeded to consider the Planning Commission Minutes of November 12, 2008. The Director of Planning and Inspection reviewed his memo (11/18/08) regarding certifying a Mitigated Negative Declaration and Rezone a .58 acre parcel from Light Industrial (ML) to Planned Development (PD) to allow construction of a new 259 multi-family residential unit infill project located on property within the jurisdictions of Santa Clara and San Jose at 1270 Campbell Avenue (PLN2008-07068) and gave an electronic presentation. The Director of Planning and Inspection and the Acting Director of Public Works/City Engineer then answered Council questions. **MOTION** was made by Caserta, seconded and unanimously carried, that the Council **uphold** the Planning Commission recommendation and **adopt Resolution No. 08-7575** entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION; REZONING LAND USE DESIGNATION FROM LIGHT INDUSTRIAL (ML) TO PLANNED DEVELOPMENT (PD); APPROVING A DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL; AND ADOPTING A MITIGATION MONITORING PLAN FOR PROPERTY LOCATED AT 1270 CAMPBELL AVENUE, SANTA CLARA, CA 95050" which adopts the Mitigated Negative Declaration, Rezones the Land Use Designation from Light Industrial (ML) to Planned Development (PD), approves the Development Plan and Conditions of Approval, adopts a Mitigation Monitoring and Reporting Plan; **approve** a Memorandum of Understanding with the City of San Jose for the property; and **note and file** the Commission Minutes.

11.A **MOTION** made by McLeod, seconded and unanimously carried, that per the Chief of Police (11/10/08), the Council **approve** acceptance of the Justice Assistance Grant, in the amount of \$324,040, from the National Institute of Justice for using DNA to solve cold cases in Santa Clara; **approve** estimated revenue of \$324,040 in Police Grant Fund Revenue from Other Agencies (account 177-7753-55500-(G)-DNA08); **approve** appropriations as follows: a) \$123,120 to the Police Grants Overtime (account 177-7753-87030-(G)DNA08) for overtime, b) \$184,660 to the Police Contractual Services (account 177-7753-87870-(G)DNA08) for payment to the contractual employees, c) \$9,260 to the Police Travel (account 177-7753-87820-(G)DNA08) for travel, d) \$6,000 to the Police Equipment (account 177-7753-88040-(G)DNA08) for equipment, and e) \$1,000 to the Police Supplies (account 177-7753-87500-(G)DNA08) for supplies; and **approve** the rollover of unexpended appropriation to future fiscal years.

12.A **MOTION** was made by Caserta, seconded and unanimously carried, that the Council **approve** the payment of Bills and Claims and Progress Payments as submitted.

13.A The City Manager noted that Richard J. Mauck, Director of Streets & Automotive Services, received the 2008 Distinguished Service Award from the Solid Waste Association of North America.

15.A The City Attorney stated that the Council held earlier in the evening at 5:00 pm a **Closed Session** in the Council Conference Room for 1) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and that there was no reportable action; 2) Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and that there was no reportable action.

The City Attorney stated that the Closed Session for personnel matters, pursuant to Government Code Section 54957(b)(1), for the evaluation of performance of a public employee - City Manager, was continued until after this evening's regular meeting.

MOTION was made by Caserta, seconded and unanimously carried, that, per the City Attorney (11/21/08), the Council **set December 2, 2008** at 5:00 pm for a **Closed Session** in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6 for a Conference with Agency Labor Negotiator, City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa

Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

- 16.A **MOTION** was made by Caserta, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 8:00 pm in **Memory** of **Joseph DeLozier** (business owner in Santa Clara for over 50 years) and **Frank Geochio** (resident of Santa Clara) to Tuesday evening, **December 2, 2008** at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: _____

City Clerk

APPROVE: _____

Mayor